

MARKET CONDUCT EXAMINATION
EAGLE PACIFIC INSURANCE COMPANY

2101 4TH AVE. SUITE 1700
SEATTLE, WA 98121

JULY 1, 2001 – JUNE 30, 2002



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The Honorable Mike Kreidler
Washington State Insurance Commissioner
PO Box 40255
Olympia, Washington 98504

Dear Commissioner Kreidler:

Pursuant to your instructions and in compliance with the statutory requirements of RCW 48.03.010 and procedures promulgated by the National Association of Insurance Commissioners (NAIC) and the Office of the Insurance Commissioner (OIC), an examination of the market conduct affairs has been performed on the following companies:

Eagle Pacific Insurance Company NAIC # 36986

In this report, the above entity is also referred to as “the company”. This examination is respectfully submitted.

CHIEF EXAMINER'S REPORT CERTIFICATION and ACKNOWLEDGEMENTS

This examination was conducted in accordance with Office of the Insurance Commissioner and National Association of Insurance Commissioners market conduct examination procedures. Sally Anne Carpenter, AIE, and Shirley M. Merrill of the Washington State Office of the Insurance Commissioner performed this examination and participated in the preparation of this report.

The examiners wish to express appreciation for the courtesy and cooperation extended by Joe Manning who facilitated the examination and the personnel of the Eagle Pacific Insurance Company during the course of this market conduct examination.

I certify that the foregoing is the report of the examination, that I have reviewed this report in conjunction with pertinent examination work papers, that this report meets the provisions for such reports prescribed by the Office of the Insurance Commissioner, and that this report is true and correct to the best of my knowledge and belief.

Leslie A. Krier, AIE, FLMI
Chief Market Conduct Examiner
Office of the Insurance Commissioner
State of Washington

FOREWORD

This examination was completed by applying tests to each examination standard. Each test applied during the examination is stated in this report and the results are reported. Exceptions are noted as part of the comments for the applied test. Throughout the report, where cited, RCW refers to the Revised Code of Washington, and WAC refers to Washington Administrative Code.

SCOPE

Time Frame

The examination covered the companies' operations from September 1, 2001 through August 31, 2002. The examination was performed in the companies' home office in Seattle, Washington. This is the first market conduct examination of Eagle Pacific Insurance Company by Washington examiners.

Matters Examined

The examination included the following areas:

Advertising	Underwriting and Rating
Agent Licensing	Cancellations and Non-Renewals
Complaints	Claims Settlement Practices
Rate & Form Filings	

SAMPLING STANDARDS

Methodology

In general, the sample for each test utilized in this examination falls within the following guidelines:

92 %	Confidence Level
+/- 5 %	Mathematical Tolerance

These are the guidelines prescribed by the National Association of Insurance Commissioners in the Market Conduct Examiners Handbook.

Regulatory Standards

Samples are tested for compliance with standards established by the Office of the Insurance Commissioner. The tests applied to sampled data will result in an error ratio, which determines

whether or not a standard is met. If the error ratio found in the sample is, generally, less than 5%, the standard will be considered as “met.” The standard in the area of agent licensing and appointment will not be met if any violation is identified. The standard in the area of filed rates and forms will not be met if any violation is identified. This will also apply when all records are examined, in lieu of a sample.

For those standards which look for the existence of written procedures or a process to be in place, the standard will be met based on the examiner’s analysis of those procedures or processes. The analysis will include a determination of whether or not the company follows established procedures.

Standards will be reported as Passed (without Comment), Passed with Comment or Failed. The definition of each category follows.

Passed	There were no findings for the standard.
Passed with Comment	The records reviewed fell within the tolerance level for that standard.
Failed	The records reviewed fell outside of the tolerance level established for the standard.

COMPANY HISTORY AND OPERATIONS

The following company does business in Washington:

Company Name	Domiciled State	Incorporation Date	Date Admitted to WA
Eagle Pacific Insurance Company	WA	07-01-1978	09-01-1978

Eagle Pacific Insurance Company was incorporated on July 1, 1978 in Washington and began business on September 1, 1978. The company's administrative offices were re-located from Bellevue, Washington to Waukesha, Wisconsin in 1981. Subsequent to the purchase of the company by Stevedoring Services of America the administrative offices were again relocated to Seattle, Washington in June of 1982.

The company was acquired by Lumberman's Mutual Casualty Company in 1998, bringing it into the Kemper Group of Companies.

John Pasqualetto is the company's President and Chief Executive Officer.

The following Operations and Management Standards Passed Without Comment:

#	OPERATIONS AND MANAGEMENT STANDARD	REFERENCE
1	The company is required to be registered with the Office of the Insurance Commissioner prior to acting as an insurance company in the State of Washington.	RCW 48.05.030(1)
2	The company is required to file with the OIC any amendments to the Articles of Incorporation for domestic insurers or insurance holding companies.	RCW 48.07.070

GENERAL EXAMINATION FINDINGS

The following General Exam Standards Passed Without Comment:

#	GENERAL EXAM STANDARD	REFERENCE
1	The company made available to the examiners all requested information, and otherwise facilitated the examination in a timely manner.	RCW 48.03.030(1)
3	The company maintains full and accurate records and accounts.	RCW 48.05.280
4	The company filed an antifraud plan with the Office of the Insurance Commissioner.	RCW 48.30A.045

The following General Exam Standard Failed:

#	GENERAL EXAM STANDARD	REFERENCE
2	The company does business in its own legal name.	RCW 48.05.190(1), Bulletin 78-7, Bulletin T 2000-06

See the Underwriting section of this examination (Page 11) for details.

ADVERTISING

The company's advertising file consisted of six items: the Website www.eig.com and five (5) printed advertisements that appeared in the Marine News, Maritime Reporter, or the Marine Reporter.

The examiners reviewed all documents that were used by the company during the exam period to determine compliance with the laws governing advertising.

Findings

The following Advertising Standards Passed Without Comment:

#	ADVERTISING STANDARD	REFERENCE
1	The company's advertising materials do not contain any false, deceptive or misleading representations.	RCW 48.30.040
4	The company is required to show the actual financial condition of the company as it corresponds with the financial statements published by each company and must include only those assets actually owned and possessed by the company exclusively.	RCW 48.30.070
5	The company does not advertise the existence of the Washington Insurance Guaranty Association.	RCW 48.30.075
6	The company does not include any statements in its advertising material that would appear to defame the name of other insurers.	RCW 48.30.080
7	The company does not misrepresent the terms of its policies in any form during the advertising and solicitation of its products.	RCW 48.30.090
8	The company does not offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured any rebate, discount, abatement or reduction of premium or any part of these as an inducement to purchase or renew insurance unless specifically exempted from this statute.	RCW 48.30.140, RCW 48.30.150

The following Advertising Standards Failed:

#	ADVERTISING STANDARD	REFERENCE
2	The company does not use quotations or evaluations from rating services or other sources in a manner that appears to be deceptive to the public.	WAC 284-30-660
3	The company must use its full name and include the location of its home office or principle office in all advertisements.	RCW 48.30.050, Bulletin No.78-7, T2000-06

Advertising Standard #2

Five (5) advertisements and the company website (100%) contained evaluations from a rating service without explaining the rating structure.

Advertising Standard #3

Five (5) advertisements and the company website (100%) did not identify the company's full name and/or identify the home office location.

See Appendix I for detail.

Subsequent event: The website was revised to show the legal name and home office location of the company while the examiners were on site. The company also advised future advertisements would be corrected.

AGENT ACTIVITIES

The examiners selected 10 agents for review from the new and renewed policies reviewed for the underwriting sample and the list of active agents provided by the companies. As part of the review, the examiners compared the companies' agent licensing records with the Office of the Insurance Commissioner's (OIC) records to ensure that agents were licensed and appointed prior to soliciting business on behalf of the company as required by Washington law. The examiners found that agents were properly licensed and appointed.

Findings

The following Agent Activity Standards Passed Without Comment:

#	AGENT ACTIVITY STANDARD	REFERENCE
1	The company ensures that agents are licensed for the appropriate line of business with the State of Washington prior to allowing them to solicit business or represent the company in any way.	RCW 48.17.060(1) and (2)
2	The company requires that agents are appointed	RCW 48.17.160

	to represent the company prior to allowing them to solicit business on behalf of the companies.	
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COMPLAINTS

The examiners requested a list of all complaints from January 1, 1999 through December 2002. The company advised there were no complaints received during this time frame. A review of the Office of the Insurance Commissioner's complaint data base confirms that information.

Findings

The following Complaint Standard passed without comment:

#	COMPLAINT STANDARD	REFERENCE
1	Response to communication from the OIC must be within 15 business days of receipt of the correspondence. The response must contain the substantial information requested in the original communication.	WAC 284-30-650, WAC 284-30-360(2), Technical Advisory T98-4

UNDERWRITING AND RATING

Eagle Pacific Insurance Company specializes in workers' compensation programs for maritime and other high-hazard industries. They also write coverage for companies requiring coverage for exposures under the U.S. Longshore and Harborworker's Act. This is the only coverage written for Washington exposures.

The examiners selected seventeen (17) of the thirty-four (34) policies that were either new or renewed as the sample for the underwriting review.

Files were reviewed to determine if:

- the company follow their filed rating plans
- the company follow their underwriting rules consistently
- the company was in compliance with Washington laws.

Note: Underwriting and Rating Standards 2, 3, 4, 5, and 6 are not applicable to this examination as they cover lines of business not sold by Eagle Pacific.

Findings

The following Underwriting Standards Passed without Comment:

#	UNDERWRITING & RATING STANDARD	REFERENCE
1	Binders issued to temporarily secure coverage are valid until the policy is issued or ninety days, whichever is shorter and shall identify the company providing the coverage and effective dates.	RCW 48.18.230(1), WAC 284-30-560(2)
7	Binders must identify the insurer in which they are bound.	WAC 284-30-560(2)(a)

The following General Exam Standard Passed without Comment:

#	GENERAL EXAM STANDARD	REFERENCE
2	The company does business in their own legal name.	RCW 48.05.190(1), Bulletin 78-7, Bulletin T 2000-06

- Seven (7) policies (21%) contained correspondence that identified “Eagle Insurance Companies” instead of the legal entity Eagle Pacific Insurance Company as the insurer.

See Appendix II for details.

RATE AND FORM FILINGS

The examiners selected policy forms and endorsements from policies and forms provided by the company that were in use during the exam period for the rate and form filings review.

The purpose of this sample was to determine if the company was complying with the laws regarding the filing and use of rates and forms.

Note: Rate and Form Filing Standard #6 is not applicable to this examination as PIP coverage is not sold by Eagle Pacific.

Findings

The following Rate and Form Filing Standards Passed Without Comment:

#	POLICY PROVISION STANDARD	REFERENCE
2	Where required, the company has filed with the OIC classification manuals, manuals of rules and rates, rating plans, rating schedules, minimum rates, class rates, and rating rules prior to use, does not issue any policies that are not in accord with the filing in effect.	RCW 48.19.040
3	The policy must identify all forms that make up the policy. The policy will identify all coverage limits.	RCW 48.18.140(2)(f)
4	The policy must contain all endorsements and forms.	RCW 48.18.190

#	POLICY PROVISION STANDARD	REFERENCE
5	Policy forms for commercial policies are filed within 30 days of use.	RCW 48.18.103(2)

The following Rate and Form Filing Standards Failed:

#	POLICY PROVISION STANDARD	REFERENCE
1	Policy forms and applications, where required, have been filed with and approved by the OIC prior to use.	RCW 48.18.100, RCW 48.18.103

- Three cancellation or non-renewal forms were identified that were not filed and approved for use.

See Appendix III for detail.

Subsequent event: The company advised these forms had been revised and filed for approval with the OIC in February 2003.

CANCELLATIONS AND NON-RENEWALS

The examiners reviewed files to determine if the company was in compliance with state laws governing cancellations and non-renewals. No policies were cancelled or non-renewed during the examination period. The company had cancellation and non-renewal forms attached to the policy that did not comply with the time frames in RCW 48.18.290 and RCW 48.18.2901. These forms are addressed in the Rates and Forms section of this examination.

Findings

The following Cancellation and Non-renewal Standards Passed Without Comment:

#	CANCELLATION & NON-RENEWAL STANDARDS	REFERENCE
1	The company does not cancel or refuse to renew policies because the agent is no longer affiliated with the company.	RCW 48.17.591
2	The company sends offers to renew or cancellation or non-renewal notices according to the requirements prior to policy termination.	RCW 48.18.290, RCW 48.18.2901, RCW 48.18.291, RCW 48.18.292
3	The company includes the actual reason for canceling, denying or refusing to renew an insurance policy when notifying the insured.	WAC 284-30-570

CLAIM SETTLEMENT PRACTICES

Washington claims covered under Eagle Pacific's policies fall under the jurisdiction of the U.S. Department of Labor. The company reports significant claim activity, such as opening and closing a time loss claim, arbitration or hearings to the Dept. of Labor. As the Department of Labor regulates the claims activity the examiners did not review claims.

Note: Claim Standard #1 through 9 are not applicable to this examination.

SUMMARY OF STANDARDS

General Examination Standards:

#	STANDARD	PAGE	PASS	FAIL
1	The company made available to the examiners all requested information in a timely manner. (RCW 48.03.030(1)) and WAC 284-30-650)	7	X	
2	The company conducts business in its own legal name. (RCW 48.05.190(1), Bulletin 78-7, Bulletin T 2000-06).	8		X
3	The company maintains full and accurate records of the policy records. (RCW 48.05.280)	7	X	
4	The company filed an antifraud plan with the Office of the Insurance Commissioner (RCW 48.30A.045)	7	X	

Company Operations and Management:

#	STANDARD	PAGE	PASS	FAIL
1	The company is required to be registered with the Office of the Insurance Commissioner prior to acting as an insurance company in the State of Washington. (RCW 48.05.030(1))	7	X	
2	The company is required to file with the OIC any changes to Articles of Incorporation, or amendments for domestic companies. (RCW 48.07.070)	7	X	

Advertising:

#	STANDARD	PAGE	PASS	FAIL
1	The company's advertising materials do not contain any false, deceptive or misleading representations. (RCW 48.30.040)	8	X	
2	The company does not use quotations or evaluations from rating services, advisory services or other sources in a manner that appears to be deceptive to the public. (WAC 284-30-660)	9		X
3	The company must use its full name and include the location of its home office or principle office in all advertisements. (RCW 48.30.050)	9		X
4	The company is required to show the actual financial condition of the Company as corresponds with the financial statements published by the Company and must include only those assets actually owned and possessed by the Company exclusively. (RCW 48.30.070)	8	X	
5	The company does not advertise the existence of the Washington Insurance Guaranty Association. (RCW 48.30.075)	8	X	
6	The company does not include any statements in its advertising material that would appear to defame the name of other	8	X	

#	STANDARD	PAGE	PASS	FAIL
	insurers. (RCW 48.30.080)			
7	The company does not misrepresent the terms of its policies in any form during the advertising and solicitation of their products. (RCW 48.30.090)	8	X	
8	The company does not offer, promise, allow, give, set off, or pay to the insured or to any employee of the insured any rebate, discount, abatement or reduction of premium or any part of these as an inducement to purchase or renew insurance unless specifically exempted from this statute. (RCW 48.30.140, RCW 48.30.150)	8	X	

Agent Activity:

#	STANDARD	PAGE	PASS	FAIL
1	The company ensures that agents are licensed for the appropriate line of business with the State of Washington prior to allowing them to solicit business or represent the company in any way. (RCW 48.17.060(1) and (2))	9	X	
2	The company requires that agents are appointed to represent the company prior to allowing them to solicit business on behalf of the company. (RCW 48.17.160)	10	X	

Complaints:

#	STANDARD	PAGE	PASS	FAIL
1	Response to communication from the OIC must be within 15 business days of receipt of the correspondence. The response must contain the substantial information requested in the original communication. (WAC 284-30-650, WAC 284-30-360(2), Technical Advisory T98-4)	10	X	

Underwriting and Rating:

#	STANDARD	PAGE	PASS	FAIL
1	Binders issued to temporarily secure coverage during underwriting are valid until the policy is issued or ninety days, whichever is shorter. (RCW 48.18.230(1) Written binders should be issued within 24 hrs WAC 284-30-560(2)	11	X	
2	The company requires an insured to reject, in writing, underinsured motorist coverage. (RCW 48.22.030(4))	N/A	N/A	
3	During underwriting, the company obtains and uses only the personal driving record for personal insurance and only the employment driving record for commercial insurance. (RCW 48.30.310, RCW 46.52.130, Bulletin 79-3)	N/A	N/A	

#	STANDARD	PAGE	PASS	FAIL
4	The company applies schedule rating plans to all policies as applicable. (WAC 284-24-100)	N/A	N/A	
5	The company retains all documentation related to the development and use of (a) rates. (WAC 284-24-070)	N/A	N/A	
6	The company may not rely solely on the decision of another insurer's denial, cancellation, or non-renewal of insurance to support a denial or termination of coverage. (WAC 284-30-574)	N/A	N/A	
7	Binders must identify the insurer in which they are bound (WAC 284-30-560(2)(a))	11	X	

Rate and Form Filings:

#	STANDARD	PAGE	PASS	FAIL
1	Policy forms and applications, where required, have been filed with and approved by the OIC prior to use. (RCW 48.18.100)	12		X
2	Where required, the company has filed with the OIC classification manuals, manuals of rules and rates, rating plans, rating schedules, minimum rates, class rates, and rating rules prior to use, does not issue any policies that are not in accord with the filing in effect. (RCW 48.19.040)	11	X	
3	The declarations page of a policy will identify all forms that make up the policy. The policy will identify all coverage limits. (RCW 48.18.140)	12	X	
4	Policy must contain all endorsements and forms. (RCW 48.18.190)	12	X	
5	Policy forms for commercial policies are filed within 30 days of use. (RCW 48.18.103(2))	12	X	
6	Personal Injury Protections forms issued by the company contain coverage definitions and limits that conform to Washington law. (RCW 48.22.095)	N/A	N/A	

Cancellations and Non-Renewals:

#	STANDARD	PAGE	PASS	FAIL
1	The company does not cancel or refuse to renew policies because the agent is no longer affiliated with the company. (RCW 48.17.591)	12	X	
2	The company sends offers to renew or cancellation or non-renewal notices within the prescribed time frames. (RCW 48.18.290, RCW 48.18.2901, RCW 48.18.291, RCW 48.18.292)	12	X	
3	The company includes the actual reason for canceling, denying or refusing to renew an insurance policy when notifying the insured. (WAC 284-30-570)	12	X	

Claims:

#	STANDARD	PAGE	PASS	FAIL
1	The company settles claims in a manner which is not in conflict with any section of the Unfair Claims Settlement Practices set forth in Washington regulations. (WAC 284-30-330)(3)	N/A	N/A	
2	The companies' claim files contain detailed log notes and work papers that allow reconstruction of the claim file. (WAC 284-30-340)	N/A	N/A	
3	The companies' claim files shall contain documentation that all pertinent benefits and coverage were disclosed to the first party claimants. (WAC 284-30-350)	N/A	N/A	
4	The company acknowledges all communications on a claim within the time frames prescribed in Washington administrative code. (WAC 284-30-360)	N/A	N/A	
5	The company complies with requirements for prompt investigation of claims (WAC 284-30-370)	N/A	N/A	
6	The company settles or denies any first party claim after receipt of documentation of the claim within 15 days. (WAC 284-30-380)	N/A	N/A	
7	The company settles auto claims in a prompt, fair, and equitable manner. (WAC 284-30-390)	N/A	N/A	
8	The company complies with regulations concerning personal injury protection (PIP) coverage. (WAC 284-30-395)	N/A	N/A	
9	The company properly sends vehicle titles or other accepted documentation to the Department of Licensing for destruction. (RCW 46.12.070) (WAC 308-56A-460)	N/A	N/A	

INSTRUCTIONS AND RECOMMENDATIONS

INSTRUCTIONS

1. The company is instructed to comply with WAC 284-30-660 to establish procedures that ensure all advertising using A. M. Best ratings or similar rating scales are fully explained in the advertisement. (Page 9)
2. The company is instructed to identify the companies' home office or principal office location on advertising to ensure compliance with RCW 48.30.050. (Page 9)
3. The company is instructed to conduct its business in its legal name. RCW 48.05.190(1) (Page 8, 11)
4. The company is instructed to comply with the requirements of RCW 48.18.100 and RCW 48.18.100(2) and file all forms. (Page 12)

APPENDIX I

Advertising Standard # 2

WAC 284-30-660	Ratings from advisory services must be fully explained
Website www.eig.com	
Marine News	August 12, 2002
Marine Reporter	August 2002
Marine News	May 20, 2002
Marine Reporter	May 2002
Maritime Reporter	May 2002

Advertising Standard # 3

RCW 48.30.050	Advertising must display the legal name of the company and home office location
Website www.eig.com	
Marine News	August 12, 2002
Marine Reporter	August 2002
Marine News	May 20, 2002
Marine Reporter	May 2002
Maritime Reporter	May 2002

APPENDIX II

General Examination Standard # 2

RCW 48.05.190	Insurers shall conduct their business in their own legal name.
Policy number	
1S0202287	Correspondence identifies Eagle Insurance Companies as the insurer
1S0202273	Correspondence identifies Eagle Insurance Companies as the insurer
1S0202207	Correspondence identifies Eagle Insurance Companies as the insurer
1S0202311	Correspondence identifies Eagle Insurance Companies as the insurer
1S0201730	Correspondence identifies Eagle Insurance Companies as the insurer
1S0100439	Correspondence identifies Eagle Insurance Companies as the insurer
1S0202398	Correspondence identifies Eagle Insurance Companies as the insurer

APPENDIX III

Rate and Forms Filing Standard # 1

RCW 48.18.100, RCW 48.18.103	Policy forms must be filed and approved for use.
No form number	30 days non-payment 30 days for notice of cancellation or non-renewal all other reasons. No form number.
No form number	30 days non-payment 45 days for notice of cancellation or non-renewal all other reasons. No form number.
No form number	30 days non-payment 60 days for notice of cancellation or non-renewal all other reasons. No form number.